

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MIGUEL DIAZ,

Petitioner,

DECISION AND ORDER

21-CV-6103L

v.

UNITED STATES OF AMERICA, The People of  
New York State,

Respondent.

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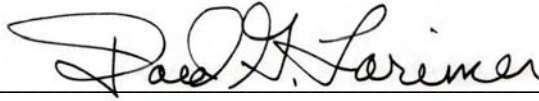
*Pro Se* Petitioner Miguel Diaz, a state prisoner currently confined at the Attica Correctional Facility, has submitted a document entitled, “Emergency COVI[D] Motion for Compassionate Release” under 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018 (hereinafter “First Step Act”), Pub. L. No. 115-391, 132 Stat. 5194. (Dkt. #1). Petitioner seeks immediate release from incarceration in the state facility due to the alleged danger he faces if he contracts COVID-19 while in custody.

As stated above, Petitioner files his Motion under the First Step Act, which allows federal inmates, under certain circumstances, to seek a modification of the term of imprisonment, including a term of probation or supervised release. *Id.* The Act applies, however, only to inmates serving federal sentences pursuant to a federal conviction for a violation of a federal criminal law, not to state prisoners serving state sentences. *See generally United States v. Echeverry*, 978 F.3d 857, 859 (2d Cir. 2020) (“The statute defines the term ‘covered offense’ to mean ‘a violation of a Federal criminal statute.’”). Accordingly, Petitioner is not entitled to relief under the First Step Act, and the Petition must be dismissed.

**CONCLUSION**

Petitioner's motion for release pursuant to 18 U.S.C. § 3582(c)(1)(A) is DENIED and the case is DISMISSED.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
February 11, 2021.